

STORE NO.: 1073  
SITE: Highway 119 & Kent Dairy Road  
Alabaster, Shelby County, Alabama

SHOPPING  
CENTER: WHITE STONE CENTER  
STOREROOM: 44,271 Square Feet

Cross Reference to Memorandum of Lease  
recorded as Instrument No.  
20030210000081140, Shelby County,  
Alabama records.

### **FIRST AMENDMENT TO MEMORANDUM OF LEASE**

THIS FIRST AMENDMENT to Memorandum of Lease (the "First Amendment") is made and entered into this 15<sup>th</sup> day of May, 2006, by and between SCHILLECI WHITE STONE, LLC, an Alabama limited liability company (hereinafter referred to as the "Landlord"), and PUBLIX ALABAMA, LLC, an Alabama limited liability company (hereinafter referred to as the "Tenant");

#### **WITNESSETH:**

WHEREAS, Landlord's predecessor in interest, Alabaster Retail Property, L.L.C., an Alabama limited liability company ("Alabaster Retail"), and Tenant entered into that certain Memorandum of Lease, dated January 17, 2003 (the "Memorandum"), which Memorandum was filed for record on February 10, 2003, as Instrument No. 20030210000081140, Shelby County, Alabama records.;

WHEREAS, the Landlord has succeeded to the interests of Alabaster Retail, as Landlord under the Lease; and

WHEREAS, Landlord and Tenant desire to modify and amend the Memorandum as hereinafter set forth.

NOW, THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. The Site Plan attached to the Memorandum as Exhibit "A" is hereby modified and supplemented to reflect the subdivision of Lot 6 into two (2) Outparcels being designated Lot 6A and Lot 6B as the same are depicted and so designated on the supplemental Site Plan attached hereto as Exhibit "A-1" and by reference thereto incorporated herein.

2. Exhibit "B-1" to the Memorandum is hereby deleted and the Exhibit "B-1" attached hereto and incorporated herein is hereby inserted in lieu thereof and all references to Exhibit "B-1" or the Outparcels in the Memorandum are hereby deemed to hereinafter refer to Exhibit "B-1" attached hereto.

3. Paragraph 16.02(b) of the Lease, entitled "Exceptions to Exclusive Uses", as the same appears in Paragraph 9 of the Memorandum, is hereby modified and amended by adding to the end thereof the following:

"; and (vi) the retail sale by Starbucks Corporation, its successors, assigns, licensees, and/or subtenants of (1) whole and ground coffee



beans, (2) coffee by the cup, (3) espresso/coffee/tea-based drinks, (4) teas and spices, (5) blended beverages, (6) espresso/coffee/tea related equipment, supplies, and accessories, (7) baked goods (but not the operation of a typical bakery) limited to not more than sixty (60) square feet of Leasable Floor Area, (8) frozen and non-frozen desserts, (9) seasonal, promotional, and tenant branded merchandise, (10) assorted food items (other than baked goods and desserts) including, but not limited to, salads, sandwiches, juices, candies, and frozen novelties, (11) books, magazines, and newspapers, (12) music merchandise and digital media content, and (13) non-food items."

4. Any capitalized term not otherwise defined in this First Amendment shall have the meaning ascribed to the same in the Memorandum.


5. Except as expressly amended by this First Amendment, the terms and provisions of the Memorandum are hereby ratified and affirmed.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals hereon as of the date and year first set forth above.

LANDLORD:

SCHILLECI WHITE STONE, LLC,  
an Alabama limited liability company

By: Schilleci White Stone Management, Inc.,  
Its Manager

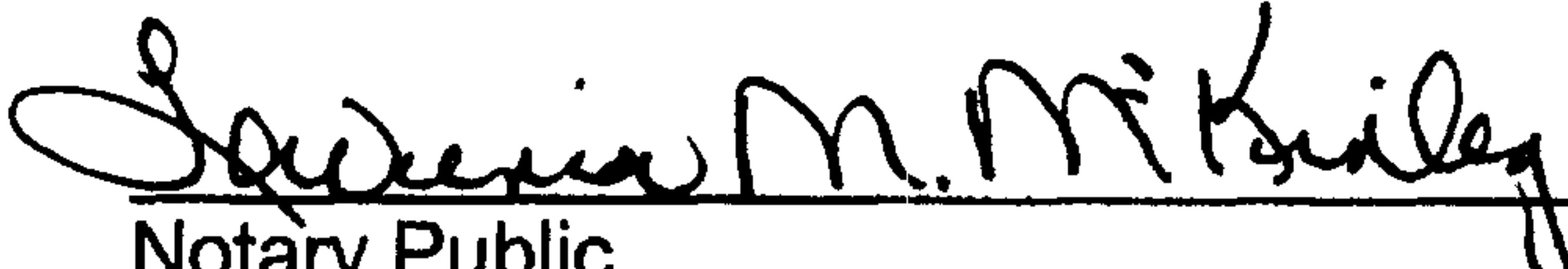
By:   
Frank S. Schilleci  
Its President

STATE OF ALABAMA )  
COUNTY OF MONTGOMERY )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Frank S. Schilleci, whose name as President of Schilleci White Stone Management, Inc., an Alabama corporation, acting as Manager of Schilleci White Stone, LLC, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as Manager of said limited liability company.

Given under my hand this the 13<sup>th</sup> day of April, 2006.

(SEAL)

  
Notary Public  
My commission expires: 6/26/06

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

TENANT:

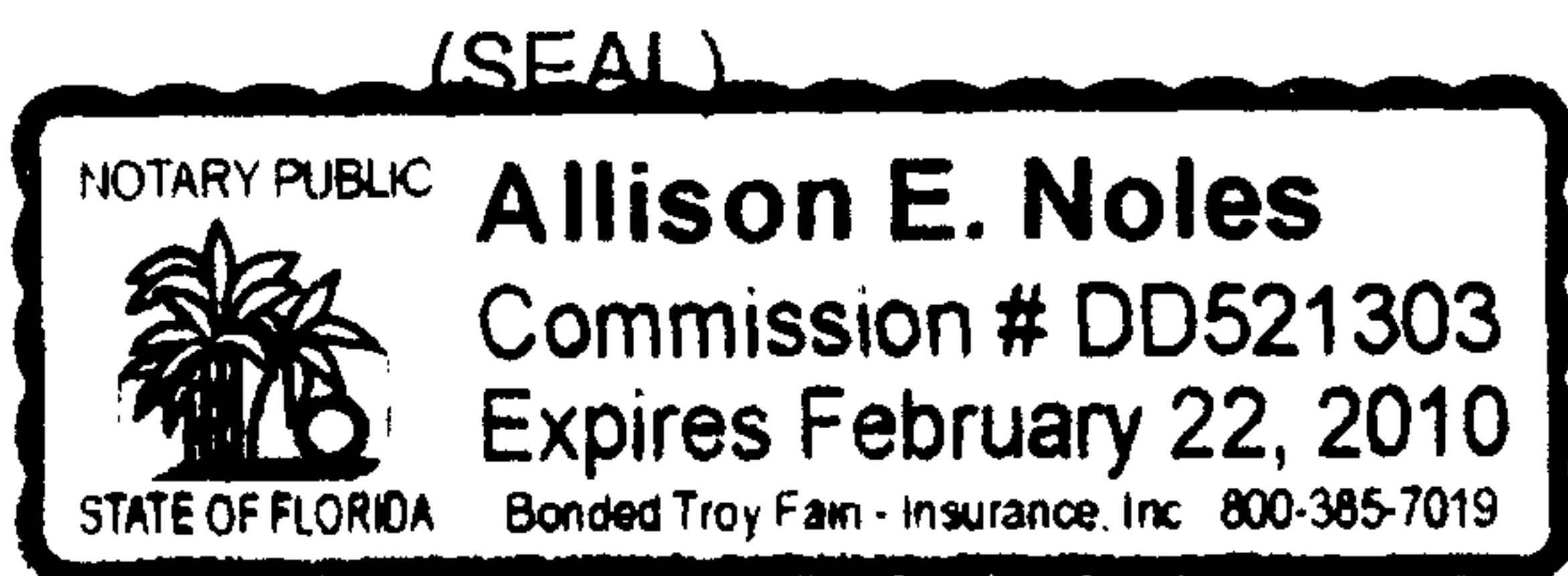
PUBLIX ALABAMA, LLC, an  
Alabama limited liability company

By: [Signature]  
Its President

STATE OF FLORIDA     )  
                                  :  
COUNTY OF POLK     )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that John Frazier, whose name as President of PUBLIX ALABAMA, LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand this the 15<sup>th</sup> day of May, 2006.



[Signature]  
Notary Public  
My commission expires: 2-22-2010

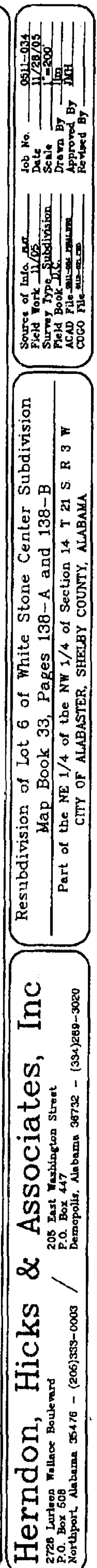
Prepared by:

Jay Y. McClure  
McClure & Kornheiser, LLC  
6400 Powers Ferry Road, Suite 150  
Atlanta, Georgia 30339  
678-388-2680



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Shelby Cnty Judge of Probate, AL  
05/25/2006 10:34:40AM FILED/CERT







STORE NO.:  
SITE: HIGHWAY 119 & KENT DAIRY  
ROAD, ALABASTER, SHELBY  
COUNTY, ALABAMA  
SHOPPING  
CENTER: WHITE STONE CENTER  
STOREROOM: 44,271 Square Feet

EXHIBIT "B-1"

Outparcel Legal Descriptions

Lot 1

STATE OF ALABAMA  
SHELBY COUNTY

A parcel of land situated in the NE 1/4 of the NW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at a 3" iron pipe found at the northwest corner of said Section 14; thence, run South 89°03'42" East along the north boundary of said Section 14 a distance of 1538.52 feet to a point on the southeast right-of-way of Alabama Highway No. 119 (variable right-of-way); thence, run South 25°20'17" West along said right-of-way a distance of 134.10 feet; thence, depart said right-of-way and run South 67°21'17" East a distance of 253.16 feet to the POINT OF BEGINNING; thence, continue South 67°21'17" East a distance of 87.31 feet to the Point of Curvature of a curve concave northeastwardly, said curve having a radius of 280.00 feet and a delta angle left of 13°19'35"; thence, run along said curve an arc distance of 65.13 feet to the Point of Tangency of said curve (the chord subtending said arc bearing South 74°01'05" East a distance of 64.98 feet); thence, run South 08°58'33" East a distance of 19.25 feet; thence, run South 25°30'31" West a distance of 173.45 feet; thence, run North 64°29'29" West a distance of 162.19 feet; thence, run North 25°30'31" East a distance of 174.20 feet to the POINT OF BEGINNING.

Said parcel contains 29,064 square feet (0.667 acres).

ALL BEARINGS DERIVED FROM STATE PLANE COORDINATES (ALABAMA WST ZONE) GRID NORTH.

Lot 2


STATE OF ALABAMA  
SHELBY COUNTY

A parcel of land situated in the NE 1/4 of the NW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at a 3" iron pipe found at the northwest corner of said Section 14; thence, run South 89°03'42" East along the north boundary of said Section 14 a distance of 1538.52 feet to a point on the southeast right-of-way of Alabama Highway No. 119 (variable right-of-way); thence, run South 25°20'17" West along said right-of-way a distance of 134.10 feet to the POINT OF BEGINNING; thence, depart said right-of-way and run South 67°21'17" East a distance of 253.16 feet; thence, run South 25°30'31" West a distance of 217.20 feet; thence, run North 64°29'29" West a distance of 252.23 feet to a point on the southeast right-of-way of said Alabama Highway No. 119; thence, run North 25°20'17" East along said right-of-way a distance of 204.56 feet to the POINT OF BEGINNING.

Said parcel contains 53,256 square feet (1.223 acres).

ALL BEARINGS DERIVED FROM STATE PLANE COORDINATES (ALABAMA WST ZONE) GRID NORTH.

  
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Lot 3

STATE OF ALABAMA  
SHELBY COUNTY

A parcel of land situated in the NW 1/4 of the NW 1/4 and the NE 1/4 of the NW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at a 3" iron pipe found at the northwest corner of said Section 14; thence, run South 89°03'42" East along the north boundary of said Section 14 a distance of 1538.52 feet to a point on the southeast right-of-way of Alabama Highway No. 119 (variable right-of-way); thence, run South 25°20'17" West along said right-of-way a distance of 412.63 feet; thence, run South 14°01'41" West along said right-of-way a distance of 152.97 feet; thence, run S 25°20'17" West along said right-of-way a distance of 175.00 feet; thence, run South 47°08'22" West along said right-of-way a distance of 26.93 feet; thence, run South 25°20'17" West along said right-of-way a distance of 124.09 feet to the POINT OF BEGINNING; thence, depart said right-of-way and run South 64°29'29" East a distance of 241.38 feet; thence, run South 19°29'29" East a distance of 7.07 feet; thence, run South 25°30'31" West a distance of 183.90 feet; thence, run North 64°29'41" West a distance of 245.82 feet to a point on the southeast right-of-way of said Alabama Highway No. 119; thence, run North 25°20'17" East along said right-of-way a distance of 188.91 feet to the POINT OF BEGINNING.

Said parcel contains 46,478 square feet (1.067 acres).

ALL BEARINGS DERIVED FROM STATE PLANE COORDINATES (ALABAMA WST ZONE) GRID NORTH.

Lot 4

STATE OF ALABAMA  
SHELBY COUNTY

A parcel of land situated in the NW 1/4 of the NW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at a 3" Iron pipe found at the northwest corner of said Section 14; thence, run South 89°03'42" East along the north boundary of said Section 14 a distance of 1538.52 feet to a point on the southeast right-of-way of Alabama Highway No. 119 (variable right-of-way); thence, run South 25°20'17" West along said right-of-way a distance of 412.63 feet; thence, run South 14°01'41" West along said right-of-way a distance of 152.97 feet; thence, run South 25°20'17" West along said right-of-way a distance of 175.00 feet; thence, run South 47°08'22" West along said right-of-way a distance of 26.93 feet; thence, run South 25°20'17" West along said right-of-way a distance of 313.00 feet to the POINT OF BEGINNING; thence, depart said right-of-way and run South 64°29'41" East a distance of 245.82 feet; thence, run South 25°30'31" West a distance of 189.63 feet to a point on the north right-of-way of Shelby County Road No. 26 (80-foot right-of-way); thence, run North 83°11'42" West along said right-of-way 169.76 feet to a right-of-way transition; thence, run North 19°20'38" West along said right-of-way transition a distance of 109.84 feet to a point on the southeast right-of-way of said Alabama Highway No. 119; thence, run North 22°54'14" East along said right-of-way a distance of 166.37 feet to the POINT OF BEGINNING.

Said parcel contains 51,387 square feet (1.180 acres).

ALL BEARINGS DERIVED FROM STATE PLANE COORDINATES (ALABAMA WST ZONE) GRID NORTH.





Lot 5

STATE OF ALABAMA  
SHELBY COUNTY

A parcel of land situated in the NW 1/4 of the NW 1/4 and the NE 1/4 of the NW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at a 3" iron pipe found at the northwest corner of said Section 14; thence, run South 89°03'42" East along the north boundary of said Section 14 a distance of 1538.52 feet to a point on the southeast right-of-way of Alabama Highway No. 119 (variable right-of-way); thence, run South 25°20'17" West along said right-of-way a distance of 412.63 feet; thence, run South 14°01'41" West along said right-of-way a distance of 152.97 feet; thence, run South 25°20'17" West along said right-of-way a distance of 175.00 feet; thence, run South 47°08'22" West along said right-of-way a distance of 26.93 feet; thence, run South 25°20'17" West along said right-of-way a distance of 313.00 feet; thence, run South 22°54'14" West along said right-of-way a distance of 166.37 feet to a right-of-way transition; thence, run South 19°20'38" East along said right-of-way transition a distance of 109.84 feet to a point on the north right-of-way of Shelby County Road No. 26 (80-foot right-of-way); thence, run South 83°11'42" East along said right-of-way a distance of 233.19 feet to the POINT OF BEGINNING; thence, depart said right-of-way and run North 02°40'24" West a distance of 42.52 feet; thence, run North 25°30'31" East a distance of 215.71 feet; thence, run North 70°30'31" East a distance of 33.92 feet; thence, run South 64°29'29" East a distance of 161.91 feet; thence, run South 85°10'00" East a distance of 253.49 feet; thence, run South 25°30'31" West a distance of 230.25 feet to a point on the north right-of-way of said Shelby County Road No. 26; thence, run North 83°11'42" West along said right-of-way a distance of 425.45 feet to the POINT OF BEGINNING.

Said parcel contains 99,722 square feet (2.289 acres).

ALL BEARINGS DERIVED FROM STATE PLANE COORDINATES (ALABAMA WST ZONE) GRID NORTH.

Lot 6-A

STATE OF ALABAMA  
SHELBY COUNTY

A parcel of land located in the northeast quarter of the northwest quarter of Section 14, Township 21 South, Range 3 West being a portion of Lot 6, White Stone Center Subdivision as recorded in the Probate Office of said County in Map Book 33 at Page 138A & 138B, said parcel being more particularly described as follows:

COMMENCE at the northwest corner of said Section 14; thence run South 89 degrees, 03 minutes, 42 seconds East and along the section line 1538.52 feet to the northwest corner of said Lot 6, White Stone Center Subdivision and the POINT OF BEGINNING, said POINT lying on the east right-of-way of Alabama Highway 119, a variable-width right-of-way; thence continue South 89 degrees, 03 minutes, 42 seconds East along the section line 169.97 feet; thence run South 19 degrees, 34 minutes, 47 seconds East 90.49 feet; thence run North 70 degrees, 25 minutes, 13 seconds East 8.25 feet; thence run South 19 degrees, 34 minutes, 47 seconds East 22.06 feet; thence run South 67 degrees, 21 minutes, 34 seconds East 10.43 feet; thence run South 22 minutes, 38 minutes, 43 seconds West 59.02 feet to a point on the north right-of-way of Kent Dairy Road, a 60-foot wide right-of-way; thence run North 67 degrees, 21 minutes, 17 seconds West and along said right-of-way 253.58 feet to a point on said east right-of-way of Alabama Highway 119; thence run North 25 degrees, 20 minutes, 17 seconds East and along said right-of-way 74.03 feet to the POINT OF BEGINNING.

Said Lot 6A containing 0.576 acres, more or less.



Lot 6-B

STATE OF ALABAMA  
SHELBY COUNTY

A parcel of land located in the northeast quarter of the northwest quarter of Section 14, Township 21 South, Range 3 West being a portion of Lot 6, White Stone Center Subdivision as recorded in the Probate Office of said County in Map Book 33 at Page 138A & 138B, said parcel being more particularly described as follows:

COMMENCE at the northwest corner of said Section 14; thence run South 89 degrees, 03 minutes, 42 seconds East and along the section line 1708.49 feet to the POINT OF BEGINNING, said POINT lying on the north boundary of said Lot 6; thence continue South 89 degrees, 03 minutes, 42 seconds East along the section line 128.51 feet to the northeast corner of said Lot 6; thence run South 00 degrees, 56 minutes, 18 seconds West along the east boundary of said Lot 113.00 feet; thence run South 89 degrees, 03 minutes, 42 seconds East along the boundary of said Lot 34.99 feet; thence run South 33 degrees, 30 minutes, 08 seconds East along the boundary of said Lot 125.04 feet to the southeast corner of said Lot, said corner lying on the north right-of-way of Kent Dairy Road, a 60-foot wide right-of-way; thence run North 80 degrees, 40 minutes, 52 seconds West along said right-of-way 72.53 feet; thence continue northwestwardly along said right-of-way, said right-of-way curving to the right and having a radius of 220.00 feet, a chord distance of 51.05 feet, said chord bearing North 74 degrees, 01 minutes, 05 seconds West; thence run North 67 degrees, 21 minutes, 17 seconds West along said right-of-way 84.07 feet; thence run North 22 degrees, 38 minutes, 43 seconds East 59.02 feet; thence run North 67 degrees, 21 minutes, 34 seconds West 10.43 feet; thence run North 19 degrees, 34 minutes, 47 seconds West 22.06 feet; thence run South 70 degrees, 25 minutes, 13 seconds West 8.25 feet; thence run North 19 degrees, 34 minutes, 47 seconds West 90.49 feet to the POINT OF BEGINNING.

Said **Lot 6B** containing 0.551 acres, more or less.



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